

MDR Tracking Number: M5-05-0405-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 9-28-04.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The following service and date of service **was found** to be medically necessary: chiropractic manipulative treatment, extraspinal (98943) for date of service 11/12/03. The following services and dates of service **were not found** to be medically necessary: muscle testing, therapeutic procedures, unlisted therapeutic procedure, office visits, mechanical traction, physical performance test, range of motion measurements from 10/13/03 through 12/02/03. The respondent raised no other reasons for denying reimbursement for the above listed services.

On 10/29/04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

CPT code 95851 on 10/30/03 for three areas (knee, cervical and lumbar) was denied by the carrier with "G", unbundling. However, the carrier did not specify what procedure the service was global to in accordance with Rule 133.304 (c). Since the carrier did not provide a valid basis for the denial of this service, reimbursement is recommended in the amount of \$91.80.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with Medicare program reimbursement methodologies for dates of service on or after August 1, 2003 per Commission Rule 134.202 (c) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 11/12/03 and 10/30/03 as outlined above in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 22nd day of July 2005.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO decision

MEDICAL REVIEW OF TEXAS

[IRO #5259]

3402 Vanshire Drive

Austin, Texas 78738

Phone: 512-402-1400

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NOTICE OF INDEPENDENT REVIEW DETERMINATION

REVISED 11/23/04

TWCC Case Number:	
MDR Tracking Number:	M5-05-0405-01
Name of Patient:	
Name of URA/Payer:	SCD Back & Joint Clinic
Name of Provider:	SCD Back & Joint Clinic
(ER, Hospital, or Other Facility)	
Name of Physician:	John R. Wyatt, DC
(Treating or Requesting)	

November 22, 2004

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: Texas Workers Compensation Commission

CLINICAL HISTORY

Documents Reviewed Included the Following:

1. Correspondence, examination reports, treatment plans and medical records from the provider
2. LSI sheets on Biofreeze, electrodes and Polar packs
3. Report from Advance Therapy
4. Report and prescriptions from David Suchowiecky, M.D.

Patient underwent physical medicine treatments after injuring his neck, low back and left knee in a motor vehicle accident on ____.

REQUESTED SERVICE(S)

97750-MT – Muscle Testing, 97124 –Therapeutic Procedure, 97110 – Therapeutic Procedure Range of Motion, 97139 – Unlisted Therapeutic Procedure, 99211 – Office Visits, 97012 – Application of a Modality Traction Mechanical, 97750 – Physical Performance Test, 98943 - Chiropractic Manipulative Treatment Extra Spinal, 95851 – Range of Motion Measurements & Reports from 10/13/03 through 12/02/03.

DECISION

Chiropractic Manipulative Treatment Extra Spinal (98943) on 11/12/03 is approved. All other examinations, treatments and procedures are denied.

RATIONALE/BASIS FOR DECISION

The *Guidelines for Chiropractic Quality Assurance and Practice Parameters*¹ Chapter 8 under “Failure to Meet Treatment/Care Objectives” states, “After a maximum of two trial therapy series of manual procedures lasting up to two weeks each (four weeks total) without significant documented improvement, manual procedures may no longer be appropriate and alternative care should be considered.” According to the medical records submitted, unsuccessful active and passive treatment had been previously attempted prior to the initial consultation with the provider. In view of that unsuccessful active and passive treatment, it would have been reasonable for a doctor of chiropractic to attempt a proper regimen² of spinal manipulation since according to the AHCPR³ guidelines, spinal manipulation was the only recommended treatment that could relieve symptoms, increase function and hasten recovery for adults

¹ Haldeman, S; Chapman-Smith, D; Petersen, D *Guidelines for Chiropractic Quality Assurance and Practice Parameters*, Aspen Publishers, Inc.

² Haas M, Group E, Kraemer DF. Dose-response for chiropractic care of chronic low back pain. *Spine J.* 2004 Sep-Oct;4(5):574-83. “There was a positive, clinically important effect of the number of chiropractic treatments for chronic low back pain on pain intensity and disability at 4 weeks. Relief was substantial for patients receiving care 3 to 4 times per week for 3 weeks.”

³ Bigos S., Bowyer O., Braen G., et al. Acute Low Back Problems in Adults. Clinical Practice Guideline No. 14. AHCPR Publication No. 95-0642. Rockville, MD: Agency for Health Care Policy and Research, Public Health Service, U.S. Department of Health and Human Services. December, 1994.

suffering from acute low back pain and several studies^{4 5 6 7 8 9} have proven the effectiveness of spinal manipulation for patients with cervical spine symptoms and conditions. However, according to the medical records submitted, spinal manipulation (manipulation to the left knee on 11/12/03 was indicated and approved) was never performed to either the cervical spine or the lumbar spine. Therefore, there was no medical basis to repeat the very same unsuccessful active and passive treatments that had been previously provided.

Therapeutic exercises may be performed in a clinic one-on-one, in a clinic in a group, at a gym or at home with the least costly of these options being a home program. A home exercise program is also preferable because the patient can perform them on a daily basis. On the most basic level, the provider has failed to establish why the services were required to be performed one-on-one when current medical literature states, "...there is no strong evidence for the effectiveness of supervised training as compared to home exercises."¹⁰ The gain in lumbar extension during this time period – with lumbar flexion actually decreasing – would have likely been achieved by the passage of time and/or the performance of a home program. That opinion is supported by the fact that the claimant's cervical ranges of motion slightly

⁴ Hurwitz EL, Morgenstern H, Harber P, Kominski GF, Yu F, Adams AH. A randomized trial of chiropractic manipulation and mobilization for patients with neck pain: clinical outcomes from the UCLA neck-pain study. *Am J Public Health.* 2002 Oct;92(10):1634-41.

⁵ Hoving JL, Koes BW, de Vet HC, van der Windt DA, Assendelft WJ, van Mameren H, Deville WL, Pool JJ, Scholten RJ, Bouter LM. Manual therapy, physical therapy, or continued care by a general practitioner for patients with neck pain. A randomized, controlled trial. *Ann Intern Med.* 2002 May 21;136(10):713-22.

⁶ Gross AR, Hoving JL, Haines TA, Goldsmith CH, Kay T, Aker P, Bronfort G, Cervical overview group. Manipulation and Mobilization for Mechanical Neck Disorders. *Cochrane Database Syst Rev.* 2004;1:CD004249.

⁷ Koes, B, Bouter, L, et al. Randomized clinical trial of manipulative therapy and physiotherapy for persistent back and neck complaints: results of one year follow up. *BMJ* 1992;304:601-5.

⁸ Koes BW, Bouter LM van Marmeren H, et al. A randomized clinical trial of manual therapy and physiotherapy for persistent neck and back complaints: sub-group analysis and relationship between outcome measures. *J Manipulative Physio Ther* 1993;16:211-9.

⁹ Cassidy JD, Lopes AA, Yong-Hing K. The immediate effect of manipulation versus mobilization on pain and range of motion in the cervical spine: A randomized controlled trial. *J Manipulative Physio Ther* 1992;15:570-5.

¹⁰ Ostelo RW, de Vet HC, Waddell G, Kerchhoffs MR, Leffers P, van Tulder M, Rehabilitation following first-time lumbar disc surgery: a systematic review within the framework of the cochrane collaboration. *Spine.* 2003 Feb 1;28(3):209-18.

mproved from 10/10/03 to 12/04/03, even though very little cervical spine treatment was rendered.

It is the position of the Texas Chiropractic Association ¹¹ that it is beneficial to proceed to the rehabilitation phase (if warranted) as rapidly as possible, and to minimize dependency upon passive forms of treatment/care since studies have shown a clear relationship between prolonged restricted activity and the risk of failure in returning to pre-injury status. The TCA Guidelines also state that repeated use of acute care measures generally fosters chronicity, physician dependence and over-utilization and the repeated use of passive treatment/care tends to promote physician dependence and chronicity. Therefore, the medical necessity of the repeated applications of massage, electrical stimulation and traction are not supported.

And finally, the disputed treatment failed to satisfy statutory requirements ¹² since the patient did not obtain relief, promotion of recovery was not accomplished and there was no enhancement of the employee's ability to return to or retain employment. While the provider stated the patient's pain was 9/10 on 10/10/03, that rating was actually obtained on 10/13/03. Except for 10/13/03 and 10/23/03, the patient's pain rating remained constant at either 6/10 or 7/10 for each and every disputed date of service that indicates that relief was not accomplished. And at the termination of the disputed treatment on 12/02/03, the provider still did not feel the claimant was able to return to even limited employment.

¹¹ Quality Assurance Guidelines, Texas Chiropractic Association.

¹² Texas Labor Code 408.021